

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 27 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MOUNTAIN WEST HOLDING CO., INC.,

Plaintiff-Appellant,

v.

THE STATE OF MONTANA; et al.,

Defendants-Appellees,

and

PATTI MCCUBBINS, MDT's Civil Rights
Bureau Chief and DBE Liaison Officer;
named only in her official capacity,

Defendant.

No. 14-36097

D.C. No. 1:13-cv-00049-DLC

ORDER AMENDING

MOUNTAIN WEST HOLDING CO., INC.,

Plaintiff-Appellee,

v.

THE STATE OF MONTANA; et al.,

Defendants-Appellants,

and

No. 15-35003

D.C. No. 1:13-cv-00049-DLC

PATTI MCCUBBINS, MDT's Civil Rights Bureau Chief and DBE Liaison Officer; named only in her official capacity,

Defendant.

Before: LEAVY and FRIEDLAND, Circuit Judges, and BENITEZ,* District Judge.

The final sentence on page 5, paragraph 3 of the Memorandum Disposition filed on May 16, 2017 is amended to read as follows: "Although the report was authenticated after it was filed, the district court made a reasonable decision to admit and consider it, and it seems Montana suffered no prejudice as a result."

With that amendment, the panel unanimously votes to deny the petition for panel rehearing. Judge Friedland has voted to deny the petition for rehearing en banc. Judges Leavy and Benitez recommend denial of the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petitions for rehearing and rehearing en banc are **DENIED**. No further petitions shall be entertained.

* The Honorable Roger T. Benitez, United States District Judge for the Southern District of California, sitting by designation.

Mountain West Holding Company's request to designate the Memorandum Disposition for publication is also **DENIED**.